

EXHIBIT 33

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CITY OF PALOS VERDES ESTATES and
CHIEF OF POLICE JEFF KEPLEY

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

CORY SPENCER, an individual;
DIANA MILENA REED, an
individual; and COASTAL
PROTECTION RANGERS, INC., a
California non-profit public benefit
corporation,

Plaintiffs,

v.

LUNADA BAY BOYS; THE
INDIVIDUAL MEMBERS OF
THE LUNADA BAY BOYS,
including but not limited to SANG
LEE, BRANT BLAKEMAN,
ALAN JOHNSTON aka JALIAN
JOHNSTON, MICHAEL RAE
PAPAYANS, ANGELO
FERRARA, FRANK FERRARA,
CHARLIE FERRARA and N.F.;
CITY OF PALOS VERDES
ESTATES; CHIEF OF POLICE
JEFF KEPLEY, in his
representative capacity; and DOES
1-10,

Case No. 2:16-cv-02129-SJO-RAO

Assigned to
District Judge: Hon. S. James Otero
Courtroom: 1

Assigned Discovery:
Magistrate Judge: Hon. Rozella A. Oliver

**[EXEMPT FROM FILING FEES
PURSUANT TO GOVERNMENT CODE
§ 6103]**

**DEFENDANT CITY OF PALOS
VERDES ESTATES' RESPONSES TO
INTERROGATORIES SET ONE
PROPOUNDED BY PLAINTIFF
CORY SPENCER**

Complaint Filed: March 29, 2016
Trial: November 7, 2017

Defendants.

PROPOUNDING PARTY: Plaintiff, CORY SPENCER.

RESPONDING PARTY: Defendant, CITY OF PALOS VERDES

SET NUMBER: ONE

Defendant CITY OF PALOS VERDES (the "City"), pursuant to Fed. R. Civ. P. 33, hereby responds to Plaintiff CORY SPENCER's Interrogatories (Set One). The City's discovery and investigation efforts in this litigation are ongoing and not complete at this time. These responses are based on information currently available to the City. The City reserves the right to supplement or amend these responses as additional facts are ascertained and as discovery progresses.

Although the information contained in these responses is based upon the facts and information currently known or believed by the City, the City reserves the right to rely upon and to present as evidence at trial any additional information that may be discovered or developed by the City and its attorneys throughout the course of this litigation.

GENERAL OBJECTIONS

1. Each response provided and any documents identified therein are subject to all objections including, but not limited to, privilege, relevancy, authenticity, and admissibility which would require exclusion of the evidence if were offered in Court, all of which are hereby expressly reserved.

2. The City objects to each of the interrogatories to the extent those interrogatories are overly broad, unduly burdensome, or seek documents or information irrelevant to any issue in this action and/or disproportionate to the needs of this case, to the extent that responding to such interrogatories are not important to resolving issues in this case or unduly consume the City's resources.

3. The City objects to each of the interrogatories to the extent they seek

documents, tangible things, or information that have been prepared in anticipation of litigation or for trial, or are otherwise subject to privilege/protection pursuant to the attorney-client privilege or the attorney work-product doctrine.

4. The City objects to each of the interrogatories to the extent they seek documents or information subject to protection from disclosure under the attorney-client privilege or any other applicable privilege.

5. The City objects to the interrogatories to the extent they seek information or documents not in the possession, custody, or control of the City.

6. The City objects to each of the interrogatories to the extent that the burden or expense of responding to such interrogatories outweighs the benefit to any party, thereby rendering such interrogatories irrelevant.

7. The fact that the City has provided a factual response or identified a document is not an admission that the fact or document is admissible in evidence, and is not to be construed as a waiver of an objection, which may hereafter be interposed to the admissibility of such fact or document as evidence in this case.

8. The City is continuing its investigation and analysis of this matter, and has not yet concluded its investigation, discovery, and preparation for trial. Therefore, these responses are given without prejudice to the City's right to produce or use any subsequently discovered facts or writings or to add to, modify, or otherwise change or amend the responses herein. These responses are based on writings and information currently available to the City. The information is true and correct to the best of the City's knowledge, as of this date, and is subject to correction and supplementation for any inadvertent errors, mistakes or omissions.

9. This preliminary statement and all general objections are hereby incorporated into each of the following responses.

10. These responses and objections will be supplemented to the extent required by Fed. R. Civ. P. 26(e)

RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 1:

Do YOU contend that a RATIONAL BASIS exists for YOU to treat RESIDENTS of the CITY differently from NON-RESIDENTS of the CITY with regard to facilitating lawful, safe, and secure access to LUNADA BAY?

RESPONSE TO INTERROGATORY NO. 1:

Objection. The City incorporates by reference its General Objections as though set forth fully herein. The City objects to this interrogatory to the extent it is overbroad and vague as to definition provided for the term "CITY"; Plaintiffs' definition as stated encompasses the City's departments of Building & Safety; Code Enforcement; Fire and Paramedic Planning; Public Works; Police Department, Recreation; City Council; City Manager; City Clerk; Finance; and Human Resources, among other commissions and committees. It is unclear which of these City departments this interrogatory references. The City further objects to this interrogatory as irrelevant in view of the numerous departments encompassed by this request, insofar as the interrogatory lacks proportionality as defined by Fed. R. Civ. P. 26(b)(1), unduly consumes the City's resources, does not have any bearing on the issues of this litigation, and to the extent that the burden and/or expense of responding to this interrogatory outweighs any negligible benefit. The City further objects to this interrogatory to the extent that its factual premise is faulty and assumes that the City (as overbroadly/vaguely defined) treats residents differently from non-residents regarding access to the geographic area referenced. The faulty premise of the interrogatory precludes a response in the affirmative or negative. The City further objects to this interrogatory as directed to issues of pure law in violation of Fed. R. Civ. P. 33. The City further objects to this interrogatory as overbroad, insofar as it fails to indicate a timeframe. The City further objects to the terms "treat" and "differently" as vague as stated, and also vague and overbroad in view of the definition of "City" as used by Plaintiffs; the City provides the below-

1 response understanding the terms used in this interrogatory to refer to how the
2 various City departments, employees, and personnel interact with residents and
3 non-residents in accessing the geographic area of Lunada Bay, if at all.

4 Subject to the foregoing objections, and understanding this interrogatory as
5 referring to all City departments, employees, and personnel, the City responds as
6 follows: No. The City does not treat residents differently from non-residents with
7 regard to facilitating lawful, safe, and secure access to LUNADA BAY.

8 **INTERROGATORY NO. 2:**

9 If your responses to Interrogatory No. 1 is anything other than an unqualified
10 “no,” explain the nature of the RATIONAL BASIS YOU contend exists to treat
11 RESIDENTS of the CITY differently from NON-RESIDENTS of the CITY with
12 regard to facilitating lawful, safe, and secure access to LUNADA BAY, including
13 an explanation of YOUR position, ALL facts YOU contend support YOUR
14 position, and ALL authorities YOU contend support YOUR position.

15 **RESPONSE TO INTERROGATORY NO. 2:**

16 Objection. The City incorporates by reference its General Objections as
17 though set forth fully herein. The City objects to this interrogatory to the extent it
18 is overbroad and vague as to definition provided for the term “CITY”; Plaintiffs’
19 definition as stated encompasses the City’s departments of Building & Safety; Code
20 Enforcement; Fire and Paramedic Planning; Public Works; Police Department,
21 Recreation; City Council; City Manager; City Clerk; Finance; and Human
22 Resources, among other commissions and committees. It is unclear which of these
23 City departments this interrogatory references. The City further objects to this
24 interrogatory as irrelevant in view of the numerous departments encompassed by
25 this request, insofar as the interrogatory lacks proportionality as defined by Fed. R.
26 Civ. P. 26(b)(1), unduly consumes the City’s resources, does not have any bearing
27 on the issues of this litigation, and to the extent that the burden and/or expense of
28 responding to this interrogatory outweighs any negligible benefit. The City further

1 objects to this interrogatory to the extent that its factual premise is faulty and
2 assumes that the City (as overbroadly/vaguely defined) treats residents differently
3 from non-residents regarding access to the geographic area referenced. The faulty
4 premise of the interrogatory precludes a response in the affirmative or negative.
5 The City further objects to this interrogatory as directed to issues of pure law in
6 violation of Fed. R. Civ. P. 33. The City further objects to this interrogatory as
7 overbroad, insofar as it fails to indicate a timeframe. The City further objects to the
8 terms "treat" and "differently" as vague as stated, and also vague and overbroad in
9 view of the definition of "City" as used by Plaintiffs; the City provides the below-
10 response understanding the terms used in this interrogatory to refer to how the
11 various City departments, employees, and personnel interact with residents and
12 non-residents in accessing the geographic area of Lunada Bay, if at all.

13 Subject to the foregoing objections, and understanding this interrogatory as
14 referring to all City departments, employees, and personnel, the City responds as
15 follows: Not applicable.

16 Dated: November 3, 2016

KUTAK ROCK LLP

17
18 By: /s/ Edwin J. Richards

19 Edwin J. Richards
20 Antoinette P. Hewitt
21 Christopher D. Glos
22 Rebecca L. Wilson
23 Attorneys for Defendants
24 CITY OF PALOS VERDES ESTATES
25 and CHIEF OF POLICE JEFF KEPLEY
26
27
28

VERIFICATION

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT

Cory Spencer, et al v. Lunada Bay Boys, et al.

CASE NO.: 2:16-cv-02129-SJO-RAO

I have read **CITY OF PALOS VERDES ESTATES' RESPONSES TO INTERROGATORIES, SET ONE, PROPOUNDED BY PLAINTIFF CORY SPENCER**, and am familiar with its contents.

I am a representative of the City of Palos Verdes Estates, California, a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I have read the foregoing response and am familiar with its contents. Based upon information presently known, I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.

Executed on November 2, 2016, at Palos Verdes Estates, California.



ANTON DAHLERBRUCH

PROOF OF SERVICE

Cory Spencer, et al v. Lunada Bay Boys, et al.

USDC, Central District, Western Division Case No.: 2:16-cv-02129-SJO (RAOx)

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the City of Irvine in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 5 Park Plaza, Suite 1500, Irvine, California 92614.

On November 3, 2016, I served on all interested parties as identified on the below mailing list the following document(s) described as:

DEFENDANTS CITY OF PALOS VERDES ESTATES' RESPONSES TO INTERROGATORIES SET ONE PROPOUNDED BY PLAINTIFF CORY SPENCER

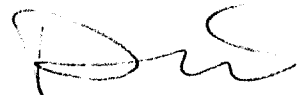
☒ (BY MAIL, 1013a, 2015.5 C.C.P.) I deposited such envelope in the mail at Irvine, California. The envelope was mailed with postage thereon fully prepaid. I am readily familiar with the firm's practice for collection and processing correspondence for mailing. Under that practice, this(these) document(s) will be deposited with the U.S. Postal Service on this date with postage thereon fully prepaid at Irvine, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☐ (BY ELECTRONIC MAIL) The above document was served electronically on the parties appearing on the service list associated with this case. A copy of the electronic mail transmission[s] will be maintained with the proof of service document. .

SEE ATTACHED SERVICE LIST

☒ (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on November 3, 2016, at Irvine, California.



Danielle Weber

SERVICE LIST

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